

view of the disease is incorrect. Such fixed delusions proceed from a profound disturbance of all the mental powers and processes. It may seem as if there were merely a partial destruction of the intelligence, while, in reality, the essential elements of thought, normal self-consciousness, and a correct appreciation of the special individuality and its relation to the world are utterly perverted and destroyed.

"The more limited the circle of these delirious conceptions, the more do they appear on superficial consideration to be simple and even inconsiderable errors of judgment. But how much do such errors, even in the most favorable cases, differ from those mistakes which in the same proceed from deficient knowledge? A long series of psychical disorders must precede them; they are inwardly developed from states of emotion. The whole personality of the patient is identified with them; he can neither cast them from him by an act of will, nor rid himself of them by argument, and in order to the existence of the delirium in this mild form, not only must that long series of emotional states from which it grew have run their course, but there must also remain behind a deficiency of thought to ensure its existence.

"This account of the disease of madness may be summed up in the following short description:—Any one or more of numerous causes may produce diseases of the brain or nervous system, which interfere more or less with the feeling, the will and the intellect of the person affected. Commonly the disease, if it runs its full course, affects the emotions first, and afterwards the intellect and the will. It may affect the emotions, either by producing morbid depression or by producing morbid excitement of feeling. In the first, which is much the commoner of the two cases, it is called melancholia, in the second mania. Melancholia often passes into mania. Both melancholia and mania commonly cause delusions and false opinions as to existing facts which suggest themselves to the mind of the sufferer, as explanations of his morbid feelings. These delusions are often accompanied by hallucinations, which are deceptions of the senses. Melancholia, mania and the delusions arising from them, often supply powerful motives to do destructive and mischievous acts.

"Insanity affecting the emotions in the form of melancholia and mania is often succeeded by insanity affecting the intellect and the will. In this stage of the disease the characteristic symptom is the existing permanent incurable delusions commonly called monomania. The existence of any such delusions indicates disorganisation of all the mental powers, including not only the power of thinking correctly, but the power of keeping before the mind, and applying to particular cases, general principles of conduct.

"The result of all this is that insanity produces upon the mind the following effects which must be considered in reference to the responsibility of persons shown to have done acts which would, but for such effects, amount to crime. Insanity powerfully affects, or may affect the knowledge by which our actions are guided, the feelings by which our actions are prompted, the will by which our actions are performed, whether the word "will" is taken to mean volition or a settled judgment the reason acting as a standing control on such actions as relate to it. The means by which these effects are produced are unnatural feelings, delusions or false opinions as to facts, hallucinations or deceptions of the senses; impulses to particular acts or classes of acts, and in some cases (it is said) a specific physical inability to recognise the difference between moral good and evil as a motive for doing good and avoiding evil."

That being the statement by, I suppose, the most eminent and recent authority upon the legal view of what insanity is, so far as it is material to the question now in hand, namely, responsibility for criminal acts, I turn to the question of responsibility according to the law. Amos says:

"This topic which in many criminal cases excites an interest often-times of the most strained and afflictive sort is one surrounded with peculiar difficulties of its own, due to the complexity and variety of the facts which it brings into consideration. These facts are partly physical or belonging to that indistinctly marked region which lies between physical and psychological science; partly ethical or dependent on a given person's apprehensions of right and wrong under abnormal or exceptional conditions, partly legal or political or dependent upon the amount of legal responsibility attributable to various degrees of mental health, in view of the protection claimed by individual persons, and of a due regard to the general safety of the whole community. It is probably rather in the first of these regions, that is the physical or psychological one, that the main practical difficulty is experienced. It is generally admitted in all systems of law that sufficient and satisfactory grounds for exculpation are found in an actual mental incapacity, whether fixed or transient, of knowing at the moment of doing an act that it is forbidden by law, or at any rate that it is morally reprehensible according to some moral notions in the agent's own mind—or in a physical incapacity to abstain from doing the act. The difficulty is presented at the moment at which it is attempted to establish the fact of either of these sorts of incapacity, and it is greatly exaggerated in cases where a legal system instead of exculpating all insane persons as a class affects to attach different degrees of punishment to different measures of presumed moral responsibility. . . . The records of criminal trials are full of an almost endless diversity of conditions of medical and moral theories to account for them."

Then Stephen's notion of the law, as it probably is, is given at page 149; extracted from the Digest:

"No act is a crime if the person who does it is at the time when it is prevented (either by defective mental power—or) by any disease affecting his mind:

"(a) From knowing the nature or quality of his act, or

"(b) From knowing that the act is wrong, or

"(c) From controlling his own conduct unless the absence of the power of control has been produced by his own default. But an act may be a crime although the mind of the person who does it is affected by disease, if such disease does not, in fact, produce upon his mind one or other of the effects above mentioned in reference to that act."

Then, in answer to the question: What is the meaning of a maniac laboring under such a defect of reason that he does not know that he is doing what is wrong? He says:

"It may be said that this description would apply only to a person in whom madness took the form of ignorance of the opinions of mankind in general as to the wickedness of particular crimes—murder, for instance—and such a state of mind would, I suppose, be so rare as to be practically unknown. This seems to me a narrow view of the subject, not supported by the language of the judges.

"I think that any one would fall within the description in question who was deprived by diseases affecting the mind of the power of passing a rational judgment on the moral character of the act which he meant to do.

"Suppose, for instance, that by reason of disease of the brain, a man's mind is filled with delusions, which, if true, would not justify his proposed act, but which in themselves are so wild and astonishing as to make it impossible for him to reason about them calmly or to reason on matters connected with them, &c., &c."

He quotes Bucknill and Tuke as follows:—

"It is of the highest importance to distinguish between that part of wrong conduct which patients are able and that which they are unable to control.

"Clinical experience alone gives the power of distinguishing between the controllable wrong conduct which is amenable to moral influences, and that violence utterly beyond the command of the will which yields only to physiological remedies."

Then Sir James Stephen shows very clearly that the language of the judges is doubtful and capable of different interpretations. He adds this:

"I understand by the power of self control the power of attending to general principles of conduct and distant motives and comparing them calmly and steadily with immediate motives and with the special pleasure or other advantage of particular proposed actions.

"Will consists in an exertion of this power of attention and comparison up to the moment when the conflict of motives issues in a volition or act.

"Diseases of the brain and the nervous system may in any one of many ways interfere more or less with will so understood. They may cause definite intellectual error, and if they do so their legal effect is that of other innocent mistakes of fact.

"Far more frequently they affect the will by either destroying altogether, or weakening to a greater or less extent, the power of steady, calm attention to any train of thought and especially to general principles and their relation to particular acts. They may weaken all the mental faculties so as to reduce life to a dream. They may act like a convulsion fit. They may operate as resistible motives to an act known to be wrong. In other words they may destroy, they may weaken or they may have unaffected power of self control.

"The practical inference from this seems to me that the law ought to recognise these various effects of madness. It ought, where madness is proved, to allow the jury to return any one of these verdicts:

"(1) Guilty;

"(2) Guilty; but his power of control was weakened by insanity;

"(3) Not guilty on the ground of insanity."

I once again call the attention of the House to the suggestion as to what the law ought to be, and I call attention to it because I shall point out before I have done that this practical result of dealing with the second class of cases, namely: "guilty but his power of control was weakened by insanity," is achieved by other means to-day, namely, by the action of the Executive. Again, Stephen says:

"As to the verdict of not guilty on the ground of insanity, the foregoing observations show in what cases, in my opinion, it ought to be returned, that is to say in those cases in which it is proved that the power of self-control in respect of the particular act is so much weakened that it may be regarded as practically destroyed, either by general weakening of the mental powers, or by morbid excitement, or by delusions which throw the whole mind into disorder or which are evident that it had been thrown into disorder by diseases of which they are symptoms, or by impulses which are irresistible and not merely unresisted."

"The position for which lawyers have always contended as to insanity is that parts of the conduct of mad people may not be affected by their madness, and that if such parts of their conduct are criminal they ought to be punished for it. It may, however, be asked how ought they